



U.S. Department of Justice

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April 2, 2021

BY ECF

The Honorable John G. Koeltl
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

*Knight First Amendment Inst. et al. v. Dep't of State et al.,
No. 20 Civ. 4911 (JGK)*

Dear Judge Koeltl:

We write respectfully on behalf of the parties in the above-referenced Freedom of Information Act (“FOIA”) case to provide the Court with a status report with regard to the remaining defendants’ processing of plaintiffs’ FOIA request.

As a preliminary matter, defendants note that their ability to process FOIA requests, including the request in this case, remains constrained by staffing restrictions necessitated by the ongoing COVID-19 public health emergency. The limitations are particularly pronounced with regard to review of records residing on classified record systems, which cannot be reviewed remotely. Defendants have nevertheless made substantial progress in processing records responsive to the FOIA requests, and the parties have had productive discussions to narrow the universe of records that remain to be processed by certain agencies.

Department of State: State has nearly completed processing of responsive records from unclassified records systems, and expects to make its final production of such records this month. State’s search of classified record systems yielded an additional approximately 7,300 pages of potentially responsive records, although that figure likely includes duplicates and draft manuscripts, which plaintiffs have agreed to exclude. The parties are in the process of discussing potential ways to narrow the universe of classified records that State will need to review and process.

Central Intelligence Agency: CIA has completed its review of all records regarding the priority publications and expects to complete production of responsive,

non-exempt records that do not require inter-agency consultation on April 1, 2021. CIA will produce any remaining non-exempt records promptly upon completion of the inter-agency consultation process. Plaintiffs have agreed to limit their FOIA request to the priority publications in exchange for CIA's agreement to provide a draft *Vaughn* index of records that were withheld in full or in substantial part under one or more FOIA exemptions. CIA currently anticipates that it will be able to provide a draft *Vaughn* index within approximately 90 days.

Office of National Intelligence: The remaining approximately 70 responsive documents require consultation with or referral to other government agencies or entities. ODNI is actively engaged in the consultation and referral process.

National Security Agency: NSA intends to finalize its final production of responsive records by March 31, 2021.

Federal Bureau of Investigation: As reported in the last status report, FBI has located (or received referrals or consultations from other agencies of) a total of 2,545 pages of records potentially responsive to the FOIA request. Due to COVID-related staffing limitations, FBI has been able to process approximately 250 pages per month. FBI will continue making rolling productions on or about the 14th day of each month. The FBI has processed 1,226 pages to date.

Department of the Air Force: After making a production of records on December 1, 2020, the Air Force conducted supplemental searches but was unable to locate any additional responsive records. The parties respectfully submit the enclosed Stipulation and Order of Dismissal with regard to plaintiffs' claims against the Air Force.

The parties will continue to meet and confer in an effort to narrow the records that need to be reviewed and processed, as well as the issues that may require litigation.

We thank the Court for its consideration of this letter, and propose to submit a further status report on or before June 4, 2021.

Respectfully submitted,

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